

**REMARKS**

Claims 27 and 29-48 are pending and stand ready for further action on the merits. Claims 36-47 have been withdrawn from consideration as being drawn to non-elected subject matter. The Examiner indicates that claim 48 has been allowed.

Applicants respectfully submit that no new matter has been added to the specification by way of the above-amendment. This amendment to the specification has been made to remove an apparent typographical error which occurred in the translation of the priority documents.

It is clear from the disclosure on page 3 of the present specification that the crosslinking agent in the Table at the top of page 4 is DCMDMB (1,4-dichloromethyl-2,5-dimethylbenzene) and not DMDMB as written. Specifically, at page 3, lines 15-20, the present inventors describe the use of the crosslinking agent DCMDMB. Also, in the last paragraph of page 3, it is stated that in the following tables (which are found at the top of page 4) are given the results of the porosity measurements upon using the crosslinking agent (DCMDMB) with the polymer SEBS. Accordingly, it is clear that the table at the top of page 4 includes data showing the effect upon the porosity of the concentration of the crosslinking agent DCMDMB and not DMDMB, which is otherwise not mentioned in the specification.

**Issues Under 35 U.S.C. §112, first paragraph**

Claims 27 and 29-35 remain rejected under 35 U.S.C. §112, first paragraph. The Examiner has maintained the position that it is new matter to recite the porosity range of 0.279-0.477 cm<sup>2</sup>/g (as appearing in claim 27, last line).

Applicants respectfully traverse the rejection.

The Examiner has taken the position that Applicants' arguments in the January 23, 2003 Amendment are not persuasive. We now summarize Applicants' arguments.

On page 4 of the January 23, 2003 Amendment, Applicants argued that the present inventors teach that the porosity of the product is related to the amount of crosslinking agent used. Specifically, the present inventors teach:

To determine the absorption capacity the porosity is studied which was found to be low up to 4% of crosslinking agent **and then to increase.** (Emphasis added). (See page 3, lines 27-31).

The fact that the present inventors state that the porosity will increase as the concentration of the crosslinking agent changes implies that the present inventors understood that there is a range of porosity values associated with the inventive macroreticular product.

In the outstanding Office Action (paper #25) the Examiner responds as follows:

Applicant should note, however, that Table 1 on page 4 of the specification shows that porosity only increases

when the crosslinking percentage is about 4%; porosity actually decreases when the crosslinking agent is increased from 1% to either 2% or 4% (see lines 2-4 of Table 1). Accordingly, since porosity and degree of crosslinking are not directly related, it is not clear that Applicant's original disclosure supports the entire range of porosity values now recited in claims 27 and 29-35. (See page 3, lines 12-20 of the Office Action).

It appears that the Examiner is misinterpreting Applicants' arguments.

First, Applicants are not stating that over the entire concentration range of the crosslinking agent that porosity increases with increasing crosslinking agent. Applicants have merely stated that the present inventors understood (at the inventive priority date) and were in possession of the concept that there is a range of porosity.

Second, it is of no consequence that there is not a positive relationship between the concentration of the crosslinking agent and the porosity over the inventive porosity range of 0.279-0.477 cm<sup>2</sup>/g, since the concept of a range of porosity is clearly possessed by the present inventors in the statement:

To determine the absorption capacity the porosity is studied which was found to be **low up to 4%** of crosslinking agent **and then to increase**. (Emphasis added). (See page 3, lines 27-31).

The highlighted portions of this statement clearly indicate that a range in the porosity was contemplated by the Inventors at the inventive priority date.

Simply stated, the Examiner appears to be interpreting the

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teaching of the present specification in a manner in which the skilled artisan would not reasonably make.

Accordingly, no new matter has been added to the disclosure by reciting the phrase  $0.279-0.477 \text{ cm}^2/\text{g}$  of porosity in claim 27.

As such, withdrawal of the rejection is respectfully requested.

#### CONCLUSION

In view of the above comments and amendments, Applicants respectfully submit that the claims are in condition for allowance. A Notice to such effect is earnestly solicited.

If the Examiner has any questions concerning this application, he is requested to contact Garth M. Dahlen, Ph.D. Reg. No. 43,575, at (703) 205-8000 in the Washington, D.C. area.

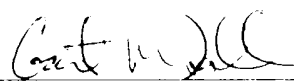
If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees

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required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17;  
particularly, extension of time fees.

Respectfully submitted,

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RCS/GMD/jeb

Attachment: Version with Markings to Show Changes Made

VERSION WITH MARKING TO SHOW CHANGES MADE

IN THE SPECIFICATION:

The specification has been amended as follows:

The Table on page 4, lines 1-10 has been amended as follows:

--TABLE

[DMDMB] DCMDMB , % SEBS, resulted porosity

[(cm<sup>3</sup>/g)] (cm<sup>3</sup>/g)

1	0.294
2	0.204
4	0.279
16	0.319
32	0.477--